



CHESAPEAKE BAY FOUNDATION

*Resource Protection
Environmental Education*

March 2, 2004

David McKay, Conservation Planning Team Leader
Conservation Operations Division
Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013-2890

Re: Conservation Security Program

Dear Mr. McKay:

The Chesapeake Bay Foundation would like to thank the U.S. Department of Agriculture for this opportunity to submit comments in response to the proposed rule for the Conservation Security Program (CSP). We applaud USDA's efforts to develop new, innovative strategies to support conservation efforts.

The Chesapeake Bay Foundation (CBF), founded in 1967, is the largest conservation organization dedicated solely to saving the Chesapeake Bay. Our motto, "Save the Bay," defines the organization's mission and commitment. With headquarters in Annapolis, Maryland, and state offices in Maryland, Virginia and Pennsylvania, CBF works throughout the Chesapeake's 64,000-square-mile watershed to protect and restore the Bay with programs in environmental education, restoration and protection. CBF is supported by 110,000 active members and has a staff of more than 180 fulltime employees.

CBF has been working for over twenty years to advocate for conservation programs and to provide technical and financial assistance to farmers to establish riparian buffers, cover crops, rotational grazing, and other conservation practices. Since 1981, CBF has operated its own demonstration farm where a great variety of conservation practices have been implemented. Moreover, CBF has considerable experience providing technical assistance for conservation programs with eight full-time field staff working directly with farmers and landowners. Over the past five years, CBF has been involved in over 4,000 conservation practices totaling over 50,000 acres of streamside buffers, wetlands and other conservation practices.

Over the past three years, CBF has actively supported and helped develop the Conservation Security Program (CSP) because it is a key program to meeting crucial environmental and economic goals for agriculture in the Chesapeake region. CBF has participated in numerous national panels, focus groups, agency meetings, and congressional lobbying to help make CSP a program that works for farmers and the environment. Recently, CBF has also convened a working group of farmers, farm organizations, agency staff, and university researchers to craft

Pennsylvania Office: The Old WaterWorks Building, 614 N. Front Street, Harrisburg, Pennsylvania 17101, 717.234.5550, fax 717.234.9632

Headquarters Office: Philip Merrill Environmental Center, 6 Herndon Avenue, Annapolis, Maryland 21403, 410.268.8816, fax 410.268.6687

Maryland Office: Philip Merrill Environmental Center, 6 Herndon Avenue, Annapolis, Maryland 21403, 410.268.8833, fax 410.280.3511

Virginia Office: 1108 E. Main Street, Suite 1600, Richmond, Virginia 23219, 804.780.1392, fax 804.648.4011

www.savethebay.cbf.org

Non-Chlorine Bleached Recycled Paper



recommendations for how green payments like CSP can most effectively be structured in the Chesapeake region.

Like many estuaries across the country, the Chesapeake Bay suffers from excessive nutrient and sediment loads resulting from agricultural production. These nutrients contribute to the growth of algae, preventing light from reaching sub-aquatic vegetation, creating "dead zones" of low dissolved oxygen, clogging steam channels and burying struggling oyster reefs.

CBF anticipates large environmental benefits from the proposed Conservation Security Program and sees it playing a critical role in reaching the goals set by state and federal governments to restore the health of the Chesapeake Bay. CBF is very enthusiastic about the future role of the CSP that will reward farmers who have maintained conservation practices for many years, and will motivate others to establish conservation practices. A strong and fully implemented CSP is crucial to help farmers achieve the required fifty percent reduction in nutrient runoff to comply with the 2010 goals set by the Chesapeake Bay Program.

CBF is very pleased that CSP is finally being initiated, but has a number of concerns that must be addressed to ensure that the program reaches its full potential. CBF recognizes the challenge and the constraints that NRCS must consider in developing the rules based on the relatively small amount of funding available in the 2004 fiscal year and the substantial increase in years following. However, NRCS must not compromise the long-term structure and success of the program based on the first year funding levels. The final rule needs to be written with the future in mind, so that the program can be expanded beyond the funding limitations of 2004.

The final rule should make a clear distinction between the limited implementation in the 2004 fiscal year and the full implementation in subsequent years. The goal for this year's implementation should be to provide states with an opportunity to gain experience with CSP across a range of farm operations types and environmental regions.

The rules should be written based on full implementation in the coming years to achieve all benefits of the program as clearly provided in the 2002 Farm Bill legislation. Specifically, CBF strongly encourages NRCS to revise the proposed rule to address the following issues:

1. Eligibility

The current proposed rules make it very difficult for farmers to participate and will so severely limit eligibility that it will discourage future participation. The law states that CSP is to be implemented nationwide and made available to all qualifying farmers and ranchers. Therefore, the rule should set realistic but effective requirements for entry into each tier.

CSP should support farmers trying to reach the environmental standards of each tier, and require that they meet the standards of each tier through their CSP participation. It is unclear how Resource Management System standards are implemented in each state, but requiring RMS as a minimum requirement for participation is problematic. RMS standards should serve as an incentive to help farmers holistically address all resource concerns.

The entry level for CSP needs to be low enough level to entice farmers to participate, so that they will receive the encouragement, technical assistance and financial support needed to improve their conservation efforts. With limited funding in Fiscal Year 2004, the program could be limited according to the following categories:

- Limited resource and beginning farmers
- Average receipt of other farm program payments over the past 5 years (with higher subcategories for those who have received less)
 1. Less than \$50,000
 2. \$50,000 to \$100,000
 3. \$100,000 to \$200,000
 4. Greater than \$200,000
- Owner-operated farms and those with long-term leases on rental land
- Proximity to streams (one subcategory if more than 50% of the farm is within 1000 feet of a stream, and a lower subcategory if 25-50% of the farm is within 1000 feet of a stream).

These categories should be expanded to allow all farmers to be eligible for the program in the future as required by the legislation.

2. Priority Watersheds

As mentioned above, the rules should be written to make CSP available to all farmers across the nation under full implementation. CBF supports identifying priority watersheds in the initial year, and suggests that the State Conservationist working with the State Technical Committee select the priority watersheds based on environmental criteria. Priority watershed should be defined and selected to ensure that each state has the opportunity to implement CSP across its major agricultural operation types and major topographic, geologic and ecological regions in the first year. To achieve the necessary diversity under the limited 2004 funding, it may be necessary to use smaller watersheds than those with eight-digit hydrologic unit codes.

In 2005 and beyond, all watersheds must be included.

3. Payment Structure

The proposed payment structure greatly limits the incentives available to farmers through CSP. As a result, very few if any farmers will view the program to be worthwhile and be interested in pursuing the program at all. The rule must provide real rewards for exceptional stewardship and substantial incentives for farmers to continue to improve their environmental management. Providing the bulk of the benefits in enhancement payments will provide the most significant incentives and rewards for the highest levels of environmental stewardship.

The rule should establish base payments based on NRCS land capability classes, not current land use. In determining base payments for pasture and grazing land, the proposed rule would determine the cash rent value of the land based on how the land is being used currently rather than by land capability. Since rental rates for pasture are far lower than for cropland, base payments would be far lower for grazers, even if their land is fully capable of producing crops and, in a different owner or operator's hands, might well be cropped. Land that has been placed

in permanent cover, a practice with enormous environmental benefits, is unwisely penalized by the proposal.

Enhancement payments should be tied to superior levels of conservation performance, rather than the cost or time needed to install a practice. This would encourage farmers to seek the most cost-effective means to achieve the necessary conservation goals.

However, CBF fully supports enhancement payments that reflect costs or time for projects above and beyond the requirements for NRCS-approved practices, such as on-farm conservation research, demonstrations or pilot projects, and cooperation with at least 75% of the farmers in a watershed implementing resource conservation plans.

4. Resource Concerns

CBF supports the proposed national resource concerns of water quality and soil quality. Within the Chesapeake watershed, water quality must be focused on nutrient runoff, which is the primary source of impairment for the Chesapeake Bay and the greatest water quality challenge for farmers in the region. The rule must define clear and effective criteria that ensure that environmental goals are achieved and that are understandable and workable for farmers. Similar to standard measures developed for soil erosion and soil health, accurate criteria must also be developed for nutrient runoff, such as nutrient balances. Such criteria can effectively be used to measure actual performance in addressing resource concerns and provide an equitable framework for incentives across different types of farm operations.

5. Cost-share Payments

CBF strongly supports collaboration among conservation programs to increase the effectiveness of individual programs. The Partnerships and Cooperation provision of the 2002 Farm Bill would be a valuable tool for promoting collaboration among state and federal agencies and other entities to maximize the conservation benefits.

With limited funding for the Environmental Quality Incentives Program (EQIP) and other federal and state cost-share programs, CSP cannot rely on these programs to provide the cost-share funds needed to establish the practices necessary to implement a CSP contract. Demand for EQIP far exceeds available funds, and many farmers are denied funding or must wait several years. Farmers may not be able to establish the practices in their CSP contract if they must rely on these other programs without adequate funding. Also, if farmers in a certain watershed are only eligible to participate in CSP in one of eight years, the chances of having other sources of cost-share and a CSP contract available at the same time are slim.

6. Conservation Practice Eligibility

The full range of NRCS-approved practices should be eligible for consideration as part of site-specific CSP conservation plans and systems. The proposed rule would provide payments for a very limited number of conservation practices, although a broad range of conservation practices are needed to strengthen soil and water quality, as well as other resource concerns. The law does not authorize this dramatic scaling back of normal NRCS practice of providing support for all NRCS-approved conservation practices. Moreover, the law specifically authorizes the use of new, innovative practices through on-farm demonstration and pilot testing, many of which would

be unlikely to fall within the limited list of eligible practices. The proposed restriction is not consistent with NRCS' policy of "site-specific" conservation and will stifle farmer innovation.

7. Continuous Sign-Up Process

A predictable, continuous, nationwide signup process should be available. Infrequent, limited duration CSP enrollment periods would make it difficult for farmers to sign-up if the limited period falls within planting and growing seasons. It would also concentrate requests for NRCS technical assistance in a limited period rather than spread out over the course of a full year.

The Office of Management and Budget assumes that the program will be offered in only 12.5% of watersheds each year. If every watershed will be included at some point, farmers would only be able to enroll one year in eight, clearly in violation of Congressional intent when the Farm Bill was passed. People who begin farming immediately after their watershed is included or for other reasons cannot enroll during the limited time of their watershed's eligibility would have to wait another eight years to be eligible, although these farms might be top priorities in actuality. This is unworkable.

8. Contract Renewal

The conservation benefits of CSP over the long-term depend on farmers' ability to continue participating in the program after their five to ten-year contracts are met. One of the major policy innovations of the CSP is to offer incentives to producers to maintain environmentally-friendly production systems for the long term. The proposed rule denies the producer's right, established by law, to renew a CSP contract provided that the conservation objectives of the contract are being met. Requiring farmers to wait until the next sign-up period may result in losses of the conservation benefits. The rule should comply with the Farm Bill and allow contracts in good standing to be renewed at the option of the producer.

9. Requirements for Renters

Farmers who rent land with long-term contracts should be supported in establishing conservation practices on all the land under their control. However, many farmers have combinations of owned land and leased land, often with different rental agreements of various times. Some leases may also begin after the CSP contract. Requiring farmers to reach the conservation standard on all of the land under their control but only receive payments on the part of the land that they own or have long-term leases is an unfair burden and will discourage many from participating in the program. For example, a farmer may have reached the RMS standard on land she or he owns or has leased for many years, but just recently entered into a short-term lease agreement on land that would not reach the standard. It appears that this person would be in violation of the contract and subject to penalties. Farmers who may anticipate future leases would be reluctant to enroll any of their land in the program.

The rule should provide fair treatment for tenants, allowing a tenant's CSP contract to exclude land under a short-term lease entirely, or allowing the farmer or rancher to receive CSP base payments (although not cost-share or enhancement payments) on land meeting CSP standards as long as the tenant controls the land. If a farmer loses access to rented land, she or he should only lose a pro-rated share of the payments based on the time that the land was under the contract holder's control.

On rented land where the tenant is the CSP contract holder, the landowner should be required to sign an agreement to maintain all structural practices that would traditionally have a life longer than the contract. Cost-share payments should only be allocated where the contract holder has access to the land for the life of the contract.

10. Transitions to Higher Tiers

Farmers should be encouraged to quickly move from one tier to a higher tier. Requiring participation in one tier for 18 months prior to moving to Tier II will not encourage people to adopt higher levels of management intensity. Also, requiring farmers moving from Tier I to II to be in both tiers for no less than 18 months will limit the window of opportunity for transitions. A much more feasible time to require participation at each level would be 12 months, especially to be compatible with the annual crop cycle.

Thank you again for the opportunity to provide these comments. CBF believes that the Conservation Security Program has the potential to be one of the most important aspects of the 2002 Farm Bill. However, it must be implemented nationally as an entitlement program to fairly treat all farmers, and to provide the maximum benefits to the environment.

Sincerely,

Kelly O'Neill

Kelly M. O'Neill
Pennsylvania Agricultural
Specialist

William H. Street/ko

William H. Street
Director of Watershed
Restoration

Michael Heller/ko

Michael Heller
CBF Clagett Farm
Manager